

The Appeals Board entered an Order on August 21, 2013. The Board's Order was timely appealed to the Court of Appeals, which filed a June 27, 2014, Memorandum Opinion. The Court concluded the Board's decision should be affirmed in part, reversed in part and remanded to the Board with directions.

The Memorandum Opinion states in relevant part:

In the Board's order, it affirmed the ALJ's determination that [claimant's] disability compensation rate was \$312.46 per week. Both [claimant] and the [respondent] concede that this weekly amount (\$312.46) is incorrect. Both parties agree that [claimant's] disability compensation rate should be \$318.87 per week. As a result, we reverse and remand to the Board with directions to issue a new order correcting the compensation rate to \$318.87 per week.¹

The Board therefore amends its Order dated August 21, 2013, as follows:

Claimant's disability compensation rate is \$318.87.²

Claimant is entitled to 7.86 weeks of temporary total disability compensation at the rate of \$318.87 per week, in the amount of \$2,506.32, followed by 34.74 weeks of permanent partial disability compensation at the rate of \$318.87 per week, in the amount of \$11,077.54, for a total award of \$13,583.86, all of which is due and owing in one lump sum, less amounts previously paid.

CONCLUSIONS

The Board's Order dated August 21, 2013, is amended as set forth in this Order on Remand. The ALJ's Award dated January 28, 2013, is modified to the extent it is inconsistent with the Memorandum Opinion of the Kansas Court of Appeals and this Order on Remand.

AWARD

WHEREFORE, it is the Board's decision that the Award of Administrative Law Judge Rebecca A. Sanders dated January 28, 2013, is modified as set forth in this Order on Remand, but is affirmed in all other respects.

¹ *Turner v. State of Kansas*, No. 110,508, 2014 WL 3022644 (Kansas Court of Appeals unpublished opinion filed June 27, 2014). The Board notes that footnote 1 on page 1 of its previous Order states: "Claimant had raised an issue regarding the compensation rate used in the Award, however, the parties agreed at oral argument that the rate is no longer in dispute."

² The Board notes that, if computed pursuant to K.A.R. 51-7-8(a)(2), a compensation rate of \$318.87 is accurate only if claimant's average weekly wage is \$478.28. The evidence in this record regarding claimant's average weekly wage is \$478.20, which would yield a compensation rate of \$318.82, not \$318.87.

IT IS SO ORDERED.

Dated this _____ day of August, 2014.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

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Honorable Rebecca A. Sanders, Administrative Law Judge